

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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FREEZE 24/7 INTERNATIONAL LLC,

Plaintiff,

05 Civ. 3429 (JGK)

- against -

MEMORANDUM OPINION  
AND ORDER

WOODBIDGE LABS, INC.,

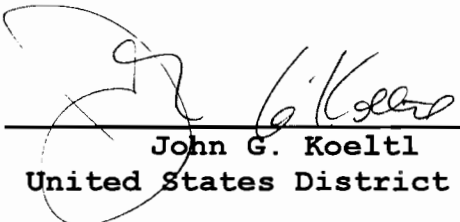
Defendant.

JOHN G. KOELTL, District Judge:

The plaintiff moved to strike the defendant's Fifth Affirmative Defense on the ground that that affirmative defense, which contained an allegation that the plaintiff had committed fraud, was not set forth with the particularity required by Rule 9(b) of the Federal Rules of Civil Procedure. Under Rule 15(a) of the Federal Rules of Civil Procedure, a "party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served." The defendant filed an amended answer on June 9, 2005, before the plaintiff filed its reply to the counterclaim contained in the answer. The motion to strike is therefore **denied as moot.**

SO ORDERED.

Dated: New York, New York  
December 22, 2005

  
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John G. Koeltl  
United States District Judge